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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,069	03/24/2005	Sun Chao Hui	1-36819	2569
43935 7590 02/27/2008 FRASER CLEMENS MARTIN & MILLER LLC 28366 KENSINGTON LANE PERRYSBURG, OH 43551			EXAMINER KIM, SANG K	
			ART UNIT 3654	PAPER NUMBER
			NOTIFICATION DATE 02/27/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

miller@fraser-ip.com  
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## Office Action Summary

Application No.

10/529,069

Applicant(s)

HUI, SUN CHAO

Examiner

SANG KIM

Art Unit

3654

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on RCE 12/11/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20 is/are rejected.
- 7) ☒ Claim(s) 1-4 and 6-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3654

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/11/07 has been entered.

***Claim Objections***

Claims 1-4 and 6-19 are objected to because of the following informalities:

In claim 1:

Line 12, "second sheave" should be --said second sheave--.

In claim 2:

Line 1, "a housing" should be --said housing--.

In claim 8:

Lines 1-2, "a free end" and "a housing" should be --the free end--and --the housing--.

In claim 9:

Line 14, "said spring housing and second sheave turns" should be --said spring housing and said second sheave turn--.

Claims 13 and 17-18 are objected because they depend from themselves. For this office action, it has been presumed that each claim depends from claim 10.

Art Unit: 3654

Appropriate corrections are required.

### ***Interference***

Claim 20 is rejected under 35 U.S.C. 135(b)(1) as not being made prior to one year from the date on which U.S. Patent No. 7024790 B1 was granted. See *In re McGrew*, 120 F.3d 1236, 1238, 43 USPQ2d 1632, 1635 (Fed. Cir. 1997) where the Court held that 35 U.S.C. 135(b) may be used as a basis for *ex parte* rejections.

Claim 20 is an exact copy of claim 1 recited in Qilian (U.S. Patent No. 7024790 B1), which is being rejected under the prior art listed below:

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Decarolis et al., U.S. Patent No. 5820057, in view of Caldwell, U.S. Patent No. 4551847.

Decarolis '057 discloses a measuring tape (i.e., which means it has some sort of measuring indicia imprinted on the blade) comprising:

Art Unit: 3654

A first axis (no reference number assigned); a spool 50 and a first sheave 66 turnable together about said first axis; an elongate flexible blade 52 having a free end 54 and a terminal end (no reference number assigned), the free end adapted to extend out of [a] housing 10, said blade wound upon said spool and normally in a fully retracted position on said spool; a second axis (no reference number assigned); a spiral spring assembly 80 and a second sheave 86 turnable together about said second axis, said spiral spring assembly (e.g. spring) including a spirally wound spring wound [there around] and contained there within so as to wind and unwind about said second axis as said second sheave turns; a gear 102 connecting said first sheave 66 and said second sheave 86, whereby extension of said blade 52 from its retracted position causes turning of said spool 50 which in turn causes turning of said spring assembly 80 to place the spring of said spring assembly in a spring wound condition which spring will cause retraction of said blade upon release of said blade from an extended position, see column 1, lines 58-61, and column 3, lines 5-20; and see figures 1-6.

Decarolis '057 uses a gear 102 for transmitting rotation of said first sheave to said second sheave rather than a flexible belt. However, Decarolis '057 recognizes that various connections between the spring motor and blade reel may be utilized, see column 1, lines 16-18.

Caldwell '847 teaches the concept of using a flexible belt 38 to drive the spool and the spring assembly, see figure 1.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the gear of Decarolis '057 with a flexible belt drive as

Art Unit: 3654

taught by Caldwell '847, to precisely control the drive between the spool and the spring assembly.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Decarolis et al., U.S. Patent No. 5820057, in view of Quenot et al., U.S. Patent No. 4189107.

Decarolis '057 discloses a measuring tape (i.e., which means it has some sort of measuring indicia imprinted on the blade) comprising:

A first axis (no reference number assigned); a spool 50 and a first sheave 66 turnable together about said first axis; an elongate flexible blade 52 having a free end 54 and a terminal end (no reference number assigned), the free end adapted to extend out of [a] housing 10, said blade wound upon said spool and normally in a fully retracted position on said spool; a second axis (no reference number assigned); a spiral spring assembly 80 and a second sheave 86 turnable together about said second axis, said spiral spring assembly (e.g. spring) including a spirally wound spring wound [there around] and contained there within so as to wind and unwind about said second axis as said second sheave turns; a gear 102 connecting said first sheave 66 and said second sheave 86, whereby extension of said blade 52 from its retracted position causes turning of said spool 50 which in turn causes turning of said spring assembly 80 to place the spring of said spring assembly in a spring wound condition which spring will cause retraction of said blade upon release of said blade from an extended position, see column 1, lines 58-61, and column 3, lines 5-20; and see figures 1-6.

Art Unit: 3654

Decarolis '057 uses a gear 102 for transmitting rotation of said first sheave to said second sheave rather than a flexible belt. However, Decarolis '057 recognizes that various connections between the spring motor and blade reel may be utilized, see column 1, lines 16-18.

Quenot '107 teaches the concept of using a flexible belt 138, 128 or gear 143 to drive the spool and the spring assembly, see figures 13-15.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the gear of Decarolis '057 with a flexible belt drive as taught by Quenot '107, to precisely control the drive between the spool and the spring assembly and that the gear can be replaced by the belt.

***Allowable Subject Matter***

Claims 1-4 and 6-19 would be allowable if rewritten to overcome the objection(s), set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The claims are patentable over the prior art of record because the teachings of the references taken as a whole do not show or render obvious the combination set forth in claims 1 and 9, including every structural element recited in the claims, especially the concept of the spiral spring assembly including a spring housing and a spirally wound spring, the spirally wound spring wound around the second shaft and

Art Unit: 3654

contained within the spring housing so as to wind and unwind about said second shaft as said spring housing and [said] second sheave turn.

### ***Response to Arguments***

Claims 1 and 7 have been amended.

Claim 5 has been canceled.

Claims 9-20 have been added.

Applicant's arguments, see pages 7-10, filed on 12/11/07, with respect to claims 1-4 and 6-19 have been fully considered and are persuasive. The rejection of Decarolis et al, Caldwell, and Quenot et al., has been withdrawn.

Applicant's amended claim 1 is much more specific and narrower than claim 20.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SANG KIM whose telephone number is 571-272-6947. The examiner can normally be reached Monday through Thursday from 9:00 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for



Art Unit: 3654

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

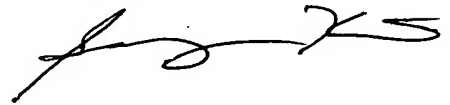
Business Center (EBC) at 866-217-9197 (toll-free).

SK

2/20/08

/SANG KIM/

Examiner, Art Unit 3654

A handwritten signature in black ink, appearing to be "Sang Kim", written in a cursive style.

*Rejection of claim 20 (copied from patent) approved.*

*Katherine Matecki*

KATHERINE MATECKI  
DIRECTOR, TC 3600